

NATIVE AMERICAN RELIGIOUS PROGRAMMING GUIDELINES MONTANA STATE PRISON

UPDATE May 20, 2010

(And as revised June 8, 2012 pursuant to settlement agreement)

At Montana State Prison, the only religious faith group that is allowed to conduct activities on the outside of the Religious Activity Center (RAC) is the Native American. The sweat lodge ceremony is the only allowable religious activity that is not under direct supervision and line of sight of a correctional officer or RAC staff member. Because of this unique situation, and the special cultural and security concerns it presents, guidelines are appropriate to clarify the procedures and activities that will be allowed. However DOC policies relating to treatment of inmates, e.g., the manner of conducting unclothed searches, etc., apply to these guidelines.

The purpose of these guidelines is to provide staff and inmates an overview of the operational procedures for religious programming and other activities specific to the Native American inmate population and to other inmates participating in Native American religious programs. These guidelines are advisory only; they do not guarantee a right to any specific practice or procedure. The guidelines are subject to change upon administrative review and approval by the Warden or his designee. Notwithstanding any other provision of these guidelines, the Warden may alter or depart from the guidelines if, in his or her discretion, the Warden determines that security interests justify such action.

Inmates who believe there has been a significant departure from these guidelines may grieve their concerns in accordance with the facility's inmate grievance procedures. Absent any other conduct, the inmate would not face reprisals for the filing of a grievance.

The Department shall continue to evaluate these guidelines on a periodic basis, taking into consideration comments of inmates, RAC advisors and others, as well as budgetary constraints, security concerns and changes in the law, and implement modifications as appropriate.

Native American DIVERSITY

Native American ("NA") spiritual activities available to inmates incarcerated at the regional prison in Glendive or Great Falls and the private prison in Shelby, as well as MSP and MWP, vary from facility to facility due to physical constraints, security concerns, staffing and building and facility schedules. What this procedure is attempting to outline is a "base line" for NA activities. Due to the diverse number of tribes in Montana, and based on best information available, we must consider the items mentioned above while also keeping in mind other activities/groups that are also entitled to space and time at the facility Religious Activity Center for their approved events.

	MSP	MWP	CCC	DCCF	GFRP
Treatment Programs					
White Bison (medicine wheel)	x	X	x		x
Spiritual programs					
Sweat Lodge	x	X	x		
Pipe Ceremony	x			x	x
Drum Group	x	X	x	x	x
Smudging	x	X	x	x	x
Talking Circle	x	X		x	
Cultural training to staff	x	X	x	x	x

Current Native American (NA) Programming through the Religious Activities Center (RAC) at Montana State Prison

Out-of-cell religious activities are not provided in the locked housing units (Max and Close III) or the Martz Diagnostic Intake Unit (MDIU).

The following NA religious events will be scheduled by RAC staff, and will be held either inside the RAC or outside at the Sweat Lodge. Religious activities at the Work and Reentry Center (WRC) will be held at that location. These events may be cancelled by the Warden or his designee due to weather, security concerns, or other legitimate penological reasons:

Sweat Lodge Ceremony - outside of the RAC and at the WRC. No more than forty-five minutes will be allowed for set-up of each sweat lodge ceremony, and approximately but not more than 2½ hours will be allowed for each ceremony, subject to the cancellation policies.

Pipe Ceremony - inside of the RAC (sometimes held outside of the RAC weather permitting) and at the WRC. One hour will be allowed for the Low Side, one hour for the High Side, and one hour for the WRC.

Talking Circle - inside of the RAC and at the WRC. One hour will be allowed for the Low Side, one hour for the High Side, and one hour for the WRC.

Drum Group Practice - inside of the RAC (outside of the RAC weather permitting) and at the WRC. One hour will be allowed for the Low Side, one hour for the High Side, and one hour for the WRC.

Based on inmate behavior, gang activity, or other events, allowed participation may be adjusted dependent on custody levels.

INMATE PARTICIPATION

Individual inmates wanting to study or practice the NA religion may do so through literature or information available through the RAC, prison library, or through the personal property procedures. In addition, specific programs for the NA religion are available through the RAC at designated times.

Subject to appropriate behavior, security and safety concerns, any inmate may participate in NA spiritual events as long as they have an expressed interest and participate appropriately. Inmates attending RAC activities must participate in the ongoing activities and will not be permitted to use these events as a meeting location with other inmates for non RAC related or disruptive activities.

Any inmate may designate the NA religion as his/her religious preference, regardless of race or ethnic background.

NA religious traditions are very diverse among the various tribes that are represented within the prison facility. Due to prison facility constraints with staffing, security concerns, and authorized time periods for inmate activities, general activities that all inmates with NA interests can partake in are established. Individualized activities for specific NA tribes or issues will not generally be established.

SWEAT LODGE CEREMONY – religious ceremony held for the purification of the inmate participant (currently available at MSP, CCC and MWP)

Sweat Lodge Setup at MSP

1. Setup for the sweat lodge ceremony will be conducted by an inmate setup crew at the time designated by RAC staff.
2. Sweat lodge setup will be limited to a maximum of four inmates who will be listed on the call-out with two alternates. Replacements for vacancies in the setup crew will be selected by RAC staff from a list of inmates who have submitted a request to be on the setup crew. An inmate must have at least six months clear conduct in order to be eligible for the setup crew.
3. Inmates on the setup crew will be called out at the authorized time, and will go to the RAC and turn their inmate ID cards into RAC staff or Correctional Officer (C.O.).
4. RAC staff will provide access to the outside sweat supply shed (under direct supervision) next to the RAC building.
5. Plastic tarps and canvas will be layered over the sweat lodge structure. Blankets will be placed inside of the sweat lodge structure.
6. One cord of wood will be hauled into the sweat lodge location by facility maintenance staff prior to the designated sweat day.
7. Rocks, as needed, will be hauled into the sweat lodge location by facility maintenance staff and stored in a 50 gallon barrel.
8. The setup crew will build a pyre of wood and rocks which is approximately 4 feet in diameter and 4 feet high. The purpose of the pyre is to heat the rocks utilized for the sweat lodge.
9. Extra/excess wood will be placed in a rack and covered with a tarp to keep it dry.
10. The sweat lodge area will be cleaned and raked as needed.
11. RAC or correctional officer staff will monitor all activities and provide direction as needed.
12. Inmates should be randomly pat searched both coming in to and leaving the RAC. Unclothed body searches will be performed by staff on a case by case basis for reasonable suspicion, and with prior clearance from the Command Post, in accordance with standard procedures.
13. Smudging is allowed during the sweat lodge setup.
14. Staff will make a log entry in the RAC log book of the inmates that were involved with the sweat lodge setup, their arrival and departure times, as well as any incident that is out of the ordinary or a security concern.
15. Inmates involved with the sweat lodge setup are not allowed to conduct any other business with staff or outside volunteers at the RAC during the time allotted for this function.

Sweat Lodge Ceremony

The ceremony will involve smudging, pipe ceremony, and the sweat. Procedures for the high side, low side, and WRC ceremonies will be the same. Inmates taking part in the sweat lodge ceremony are not allowed to meet with RAC staff or other volunteers for issues not related to sweat lodge ceremony activities. Inmates are to be actively taking part in the ceremony activities or they will be returned to their housing units. Maximum capacity of a sweat lodge at MSP is 20 participants. Inmates may rotate through the sweat lodge during the allotted time if the sweat lodge has reached capacity on a one-for-one basis (if one leaves the lodge one goes in, if two come out two go in, and so forth). The time allowed for each sweat lodge ceremony will be approximately but no more than 2½ hours, subject to cancellation policies.

1. Sweat lodge ceremony activities may be an “open call”, where inmates are not listed on the call-out sheet, or be based on a pre-signup process per direction of the MSP Administration.

2. At the authorized time, RAC staff will call the respective housing units to release the inmates who are attending the sweat ceremony. The inmates will check out of their housing units according to established protocols and proceed to the RAC, where they will turn their ID card in to RAC staff or the C.O. RAC or C.O. staff will make entries in the RAC log book of the date, time and the number of inmates that attended each ceremony, and make photocopies of every inmate ID card which will be retained on file as a record of inmate attendance.
3. Once checked in at the RAC, the inmates will be allowed to go to the sweat lodge area. Inmates involved with sweat will remain in the sweat lodge area during the ceremony. The only access to the RAC building is for rest room purposes. A Correctional Officer is on site to provide security functions and will observe activities outside of the sweat lodge and tepee to ensure inmates are in compliance with sweat protocol. The C.O. will rotate between the sweat lodge area and the RAC, as Catholic mass is usually in progress at the RAC during the same time period. As scheduling permits, Command Post staff may assign an extra C.O. to the RAC area to assist in supervising inmates.
4. The only personal property items outlined in MSP 4.1.3, Inmate Personal Property for the Native American religion that are allowed to be brought to the RAC by the inmates participating in the sweat lodge ceremony are their medicine bag and eagle feathers.
5. Smudging
 - a. Smudging will only be available at the start of the NA sweat ceremony at the RAC or WRC sweat lodge.
 - b. RAC staff or the correctional officer will provide the smudging ingredients, and the participating inmates will not be deprived of appropriate ingredients. The respective authorized institutional pipe carrier will request approved botanicals in advance of the ceremony through established procedures. Generally, one to two cups of smudging ingredients will accommodate up to fifty individuals.
 - c. Smudging is performed by igniting a mixture of botanicals (usually sage, cedar, and/or juniper) that has been placed on the approved ceremonial abalone shell, and waving or wafting the smoke from the smoldering botanicals, by means of a hand or feather, over the area of the person being ceremonially cleansed.
 - d. Smudging may be done once per participant or repeatedly as needed for the group service being held.
 - e. Dry smudging (no smoke) with sweet grass is not utilized at MSP.
6. Sacred Pipe Ceremony
 - a. MSP will have designated pipe carriers selected by a process as determined by the MSP Administration and RAC staff and, when possible, consistent with NA traditional practices. Pipe carriers are responsible for handling and controlling the sacred pipe for their respective area during pipe ceremonies. RAC staff will monitor the ballot and selection process for selecting pipe carriers. The pipe carriers will remain in place unless they resign, leave the facility, are moved out of their respective area/unit, or receive a major disciplinary write-up.
 - b. Each of the sacred pipes will be kept in a suitable wrap or cloth and stored in a separate safe and secure storage unit at the RAC or WRC. The pipe carriers are responsible for placement of their assigned pipe in this storage unit with assistance from the assigned staff member. Proper care, use and respect for the pipe are essential.
 - c. RAC staff will meet with the pipe carrier in a designated location to prepare the pipe mixture that is utilized at the sweat and pipe ceremony events. The pipe mixture will be an approved combination of pipe tobacco, bearberry and red willow.
 - d. The pipe mixture will be placed in sealable two fluid ounce capacity cups. At the applicable ceremony, designated RAC or C.O. staff will provide one cup of the mixture to the pipe carrier for each 15 inmates attending the ceremony.
 - e. The pipe carrier will fill the bowl of sacred pipe with the pipe mixture and light it.

- f. The pipe bowl will be refilled as needed to ensure all participants have the opportunity to utilize the sacred pipe.
 - g. The pipe carrier will return all unused pipe mixture to RAC staff at the conclusion of the sweat lodge ceremony.
 - h. MSP is a smoke free environment, and as such tobacco is not allowed inside of the facility except for the pipe ceremony. As a result, the tobacco and pipe mixture must be closely monitored and accounted for. RAC staff are responsible for establishing an inventory accountability system that accounts for all tobacco utilized for pipe ceremonies.
 - i. Tobacco restrictions are subject to change at the exclusive determination of MSP administration and upon approval of the Warden or his designee.
 - j. Inmates that inappropriately utilize or steal the pipe mixture will receive a major disciplinary infraction write-up.
 - k. At the end of each sweat and pipe ceremony, the sacred pipe, pipe wrap and other related items will be visually inspected by RAC or CO staff (with the pipe carrier handling the sacred pipe) and stored as indicated in section #6.b. above.
 - l. The pipe is smoked during sweat lodge ceremony and at weekly “stand alone” pipe ceremonies. For clarity: smudge is the opening part of a pipe ceremony (and any other NA religious activity for that matter), and a pipe ceremony is a component of a sweat lodge ceremony.
7. Drumming
- a. The drum group will provide drumming during the sweat lodge ceremony along with singing and chanting.
 - b. During the sweat lodge ceremony any inmate participant may utilize the drum items.
8. Tepee
- a. At MSP a tepee is located near the sweat lodge area. This tepee, though not necessary to the sweat lodge ceremony, is provided for limited shelter against the weather and to provide an area for participants to change clothing. Whenever inmates are present in the tepee, the “flap” will remain open as well as any section of the tepee walls that will allow assigned staff enough vision to inspect and view the inside of the tepee. Other than inmate clothing, there will be no other items allowed inside the tepee such as wood for a fire.
 - b. Currently the tepee provides an enclosed location for inmates to offer prayers and sit while they are waiting for their turn to enter the sweat lodge.
 - c. No fires or fire pit will be allowed in front of the tepee.
 - d. Inmates are not to use the tepee as a visiting location or for other functions not associated with sweat ceremony activities.
 - e. Use of the tepee is subject to change at the exclusive determination of MSP Administration and upon approval of the Warden or his designee.
9. Sweat Ceremony
- a. RAC or correctional officer staff will monitor the activities in the best manner possible without entering the sweat lodge.
 - b. Inmates are allowed to be either in the tepee, drum group, fire pit, sweat lodge or the immediate area of the sweat lodge location, as long as they are actively participating in the sweat ceremony.
 - 1) Inmates will not be allowed to only visit or loiter around.
 - 2) Inmates will not be allowed to sprawl out to sunbathe, use profanity, or engage in any gang, disruptive, or other behavior not typical of a sweat ceremony.Inmates not taking an active part in the sweat ceremony will be returned to their housing unit.

- c. While efforts are made to accommodate participation in traditional religious, cultural and spiritual activities, disruptive activity or violations of security or prison policies and procedures may result in greater restrictions being placed on the activities at the discretion of prison officials after administrative review and approval by the Warden or his designee.
- d. The wood in the fire pit will be lit using newspaper and a lighter controlled by the RAC staff. The purpose of the fire pit is to heat the rocks that will be utilized for the sweat activities. It takes approximately 45 minutes for the fire to adequately heat the rocks.
- e. Heated rocks from the fire pit will be carried to the sweat lodge area by the use of a shovel or heavy wire basket on a metal pole. Gloves are available as personal protective equipment for this process. Antlers will not be approved or utilized for this activity due to security issues.
- f. The heated rocks from the fire pit will be placed in a separate pit within the sweat lodge. This pit is approximately three feet in diameter and 18" deep.
- g. Water is available from the water fountain inside the RAC and through a water spigot located near the side of the RAC building where the sweat activities are occurring. The water is utilized for pouring on the heated rocks inside the sweat lodge to create steam for the sweat, to rinse off the participants, and for drinking.
- h. During the ceremony, heated rocks are regularly being brought from the fire pit to the sweat lodge area so that the sweat lodge activities can continue uninterrupted.
- i. The flap on the sweat lodge will be left closed to the extent possible during the sweat.
- j. At any one time there may be no more than 20 inmates in the sweat lodge.
- k. The number of sweat lodge rounds will depend on the number of participants. Usually, four rounds of sweat are conducted with inmate participants rotating through the sweat lodge. A fifth round may be conducted if it can be completed within the allotted time frame (2½ hours).
- l. During the ceremony inmates may have their shirts off, but they are not allowed to be naked. Nudity is never permitted. At a minimum, every inmate must have underwear and gym shorts on at all times.
- m. Unless there is reason to suspect inappropriate activity in the sweat lodge, RAC or correctional officer staff will not pull the sweat lodge flap open or enter the sweat lodge during a ceremony. Staff should not cross the area between the fire and the lodge but should walk around the fire or behind the lodge while a ceremony is in progress.
- n. When the authorized time period has elapsed, the inmates will clean up the ceremonial area by placing broken rocks, fire ash, and other items in the barrel provided for this purpose.
- o. Used towels and blankets will be placed on the pallets at the location so they can be taken to the laundry for laundering.
- p. The plastic tarps and canvas will be rolled up and placed in the appropriate location in the designated storage shed.
- q. The inmates will be randomly searched, given their ID cards, and sent back to their housing units. If information, suspicion, or activities of inmates justifies the need for random unclothed body searches, Command Post staff will be notified and will provide the appropriate instruction. Any unclothed search shall be conducted in private unless emergency circumstances exist.
- r. The Correctional Officer(s) and/or RAC staff will thoroughly inspect the sweat ceremony area and perform normal search procedures when the sweat ceremony activities have concluded.
- s. The only beverage provided for sweat lodge ceremonies will be water. There will be no other foods or beverages.
- t. Scheduled inmate counts will be conducted utilizing the inmate ID cards turned in prior to the sweat lodge ceremony.
- u. Inmates should be pat searched both coming in to and upon departure from the RAC. Unclothed body searches will be performed on a case by case basis for reasonable suspicion and as cleared by Command Post staff, and will be conducted in accordance with standard procedures.

Sweat Lodge Ceremony Cancellation

Sweat lodge ceremonies will generally occur on a weekly basis and will be cancelled when:

1. The temperature in degrees combined with the wind in miles per hour reaches a wind chill factor of 0 degrees or below;
2. there are fire bans by the State, County or DOC authorities due to high fire danger conditions; or
3. there are facility lockdowns, emergencies, gang activity, or other documented security concerns.

If ceremonies have been cancelled for two or more consecutive weeks, week

consideration, based on the RAC -schedule, will be made to allow for a substitution day. RAC staff will appropriately note any sweat lodge ceremony cancellations in the RAC logbook, but only after approval by Command Post staff or higher authority.

PIPE CEREMONY - religious ceremony involving the use of the sacred pipe (currently available at MSP, Glendive and Great Falls)

1. Pipe ceremonies occur as scheduled by RAC staff.
2. Pipe ceremony activities may be an "open call", where inmates are not listed on the call-out sheet, or be based on a pre-signup process per direction of the MSP Administration.
3. At the authorized time, RAC staff will call the respective housing units to release the inmates who are attending the pipe ceremony. The inmates will check out of their housing units according to established protocols and proceed to the RAC, where they will turn their ID card in to RAC staff or the C.O. RAC or C.O. staff will make entries in the RAC log book of the date, time and the number of inmates that attended each ceremony, and make photocopies of every inmate ID card which will be retained on file as a record of inmate attendance.
5. Inmates are allowed to smudge at the beginning of the ceremony as outlined above for smudging (see item #5 on page four).
6. The sanctuary room in the RAC will be utilized for the stand alone pipe ceremonies.
7. All inmate participants will sit in a circle, and are not allowed to be up and walking about during the pipe ceremony.
8. The designated pipe carrier, under staff supervision, will facilitate the activity related to the pipe and pipe mixture provided by RAC staff, unless there is a NA volunteer advisor present to fulfill this role.
9. The bowl of the pipe will be filled with the pipe mixture which is an approved combination of pipe tobacco, bearberry and red willow. Botanicals may be allowed at the request of the pipe carrier, but only with the approval of RAC staff. All items used with the pipe will be controlled through RAC staff and the amounts distributed will be based on established procedures and the number of inmates attending the ceremony.
10. Inmate participants will pass the pipe around and offer their prayers as they conduct the ceremony. Generally time and supplies will be provided to allow for four rounds. One additional round will be allowed if there is time to do so, but the allotted time must be according to the RAC schedule.
11. The only personal property items outlined in MSP 4.1.3, Inmate Personal Property for the Native American religion that are allowed to be brought to the RAC by the inmates participating in the pipe ceremony are their medicine bag and eagle feathers.
12. RAC or correctional officer staff will monitor activities and provide direction as needed.
13. Inmates should be pat searched both coming in to and leaving the RAC. Unclothed body searches will be performed on a case by case basis for reasonable suspicion and as cleared by Command Post staff, and will be conducted in accordance with standard procedures. Unclothed searches shall be conducted in private unless emergency circumstances exist.
14. At the end of the pipe ceremony the sacred pipe, pipe wrap and any other items may be visually inspected by RAC or CO staff with the pipe carrier handling the sacred pipe. Prison staff should be aware of the high spiritual significance of the sacred pipe and reverence in which it is held. It should be visually rather than manually inspected. If the components of the sacred pipe need to be assembled or disassembled for inspection the pipe carrier should perform this task. If, after a visual inspection, it is

suspected that the pipe has been used to conceal contraband staff may confiscate the pipe for appropriate action, otherwise it will be placed in a suitable wrap or cloth and stored in a separate safe and secure storage unit at the RAC or WRC.

15. Smoking of the pipe by inmates or the pipe carrier is limited to the RAC or the sweat lodge ceremonial area during designated ceremonies.
16. If a scheduled pipe ceremony is cancelled due to facility need there will be no makeup or rescheduling.

TALKING CIRCLE CEREMONY– religious ceremony involving the use of a talking feather or another approved NA object. (currently available at MSP, MWP and Glendive.)

1. Talking circle ceremonies occur as scheduled by RAC staff.
2. Inmate participants will not be listed on the inmate call-out list.
3. At the authorized time, RAC staff will call the respective housing units to release the inmates who are attending the talking circle ceremony. The inmates will check out of their housing unit according to established protocols and proceed to the RAC, where they will turn their ID card to RAC staff or the C.O.
4. The sanctuary room in the RAC will be utilized for talking circle ceremonies. Inmates utilize the sanctuary room in the RAC and all inmates sit in a circle. No inmates are allowed to be up and walking about during talking circle.
5. Inmates are allowed to smudge at the beginning of the ceremony. See item #5 on page four for the smudging procedure.
6. The inmate with the feather has the floor to speak with no negativity. Sidebar conversations by the other participants are not allowed. Each inmate is given the opportunity to speak. If an inmate has taken too much time during his opportunity, another inmate will give a sign (usually a cough) that it is time to move to the next person.
7. Inmates participating in the talking circle ceremony will be accountable for following the rules and being respectful. Inmates who engage in disruptive behavior during the talking circle ceremony may be removed from the ceremony and sent back to their housing unit.
8. The only personal property items outlined in MSP 4.1.3, Inmate Personal Property for the Native American religion that are allowed to be brought to the RAC by the inmates participating in the talking circle ceremony are their medicine bag and eagle feathers.
9. RAC or correctional officer staff will monitor activities and provide direction as needed.
10. Inmates should be pat searched both coming in to and leaving the RAC. Unclothed body searches will be performed on a case by case basis for reasonable suspicion and as cleared by Command Post staff, and will be conducted in accordance with standard procedures
11. RAC staff will make entries in the RAC log book of the date, time and the number of inmates that attended each talking circle ceremony.
12. If Talking Circle is cancelled for the week due to facility need there will be no makeup or rescheduling.

DRUM GROUP PRACTICE (currently available at MSP, MWP, CCC and Great Falls)

1. Drum group practice for designated inmates is not considered part of any NA ceremony or religious activity.
2. To qualify and remain a member of the drum group an inmate must have at least 6 months clear conduct.
3. Only those inmates on the authorized callout list are allowed to attend the scheduled practice session.
4. At the authorized time, RAC staff will call the respective housing units to release the inmates who are on the call-out list to attend the drum group practice session. The inmates will check out of their housing unit according to established protocols and proceed to the RAC, where they will turn their ID card in to RAC staff or the C.O.
5. Drum group practice will be held in the RAC sanctuary room or outside, weather permitting.
6. Inmates are allowed to smudge at the beginning of the practice session. See item #5 on page four for the smudging procedure.
7. Auxiliary groups (drum group, worship team) are allowed 16 participants. RAC staff will interview potential participants, confirm clear conduct with housing unit staff, and add new members as needed.
8. Inmates should be pat searched both coming in to and leaving the RAC. Unclothed body searches will be performed on a case by case basis for reasonable suspicion and as cleared by Command Post staff, and will be conducted in accordance with standard procedures
9. The only personal property items outlined in MSP 4.1.3, Inmate Personal Property for the Native American religion that are allowed to be brought to the RAC by the inmates participating in a drum group practice are their medicine bag and eagle feathers.
10. RAC or correctional officer staff will monitor activities and provide direction as needed.
11. RAC staff will make entries in the RAC log book of the date, time, and the number of inmates that attended each drum group practice session.
12. If drum group practice is cancelled for the week due to facility need, there will be no makeup or rescheduling.